IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No.686 of 1999

Date of decision : March 28, 2007

Raj Kumar

.. Petitioner

versus

State of Punjab and others

.. Respondents

Coram: Hon'ble Mr. Justice A.N. Jindal.

Present: Mr. Paramjit Batta, Advocate
for the petitioner.

Mr. M.S. Joshi, DAG, Punjab.

Mr. S.C. Chhabra, Advocate
for the respondent No.2.

A.N. Jindal, J.

An order dated 2.6.1999 passed by learned Additional Sessions Judge, Ferozepur, accepting the revision petition preferred by Tarsem Singh-respondent (hereinafter referred to as 'the respondent') for handing over him the truck bearing registration No.PB-5E-9576 and setting aside the order dated 16.1.199 passed by learned Judicial Magistrate Ist Class, Zira, declining the application of Tarsem Singh and accepting application of Raj Kumar revision-petitioner (hereinafter referred to as 'the petitioner'), for handing over the supurdari of the aforesaid truck, has been called in question by way of the present revision petition.

The facts in the background of the case are that a case FIR 251 dated 15.12.1998, under Sections 392/34 IPC was registered against Tarsem Singh and others on the complaint of the petitioner-Raj Kumar on 4.12.1998, whereby he claimed that he was the owner of the aforesaid truck, whereas Tarsem Singh with the connivance of four others snatched the truck

from him on 6.9.1998. After registration of the case, the police took the truck into possession and commenced the investigation. During the pendency of the investigation Raj Kumar as well as Tarsem Singh moved different applications for claiming supurdari of the truck. The trial Court, vide its order dated 16.1.1999, while declining the application of Tarsem Singh accepted the claim raised by Raj Kumar and ordered to release the truck to him on supurdari.

Aggrieved by the aforesaid order, Tarsem Singh preferred revision petition, which was accepted by the learned Additional Sessions Judge, Ferozepur vide its order dated 2.6.1999 and the aforesaid truck was ordered to be released on supurdari to Tarsem Singh on furnishing supurdari bonds in the sum of Rs.5 lacs with one surety undertaking that :-

1. the truck is to be produced on each and every date of hearing fixed by the Court;
2. the truck is not to be sold and colour of the truck was not to be changed without permission of the Court.

Hence, Raj Kumar-petitioner has impugned the aforesaid order.

Tarsem Singh-respondent has registered his claim on the ground that he being the scheduled caste had purchased the truck while taking loan from Punjab Scheduled Castes Financial Corporation, Chandigarh and has been paying installments regularly. He did not sell or agreed to sell the said truck to the petitioner-Raj Kumar. However, he had purchased car bearing registration No.PB5E-3099 on 27.9.1997 from Vijay Kumar brother of the respondent. Vijay Kumar under the garb of transferring the said car to him might have got his signatures on some blank

papers which he might have forged to project the sale of the truck to him (Raj Kumar). As a matter of fact, he is the real owner of the truck. He has been depositing the installments of loan. The respondent took the custody of the truck wrongfully under the garb of registration of the case. The original registration book is in his name. Had Raj Kumar purchased the said truck from him on 5.12.1997, then he would have got the transfer entry made in his name but his silence for two years is also indicative of the fact that he has registered a false claim. To the contrary, claim set up by Raj Kumar is that he purchased the truck from Tarsem Singh on 5.12.1997 on the basis of the affidavit. The registration of the case against him also indicates that Tarsem Singh was in wrongful custody of the truck and the truck is in his possession as owner. He has been depositing the installments to the Punjab Scheduled Castes Financial Corporation.

Having closely scrutinized the documents on record, I am afraid to hold if there is any merit in the contention raised by the learned counsel for the petitioner-Raj Kumar. On scrutiny of the record, it transpires that affidavit allegedly executed by Tarsem Singh is dated 5.12.1997 which means that Tarsem Singh transferred the said truck only on 5.12.1997, but this affidavit stands belied by certificate dated 4.6.1999, annexure P-8, on record issued by the Truck Operators Union, Moga Road, Kot Ise Khan (Ferozepur), which reveals that the petitioner had got registered the said truck with the union in October, 1997. Thus, the petitioner has no case from both the angles. Had he purchased the truck on 5.12.1997 by way of the alleged affidavit, then he must have got the said truck registered with the union only in the month of December, 1997, but the certificate shows that

the petitioner came in possession of the said truck since October, 1997. Had Raj Kumar purchased the said truck from the respondent Tarsem Singh vide affidavit dated 5.12.1997, then he would have informed the Registering Authorities about the said transfer and submitted the documents with it before the Registering Authority but he kept silent over the document since 5.12.1997 till the registration of the case, which also belies the truthfulness of the affidavit, annexure P-5. The fact that the affidavits saw light of the day only at the time the case was registered against the respondent Tarsem Singh on 15.12.1998, also creates doubt about its genuineness. Admittedly, the truck was purchased by Tarsem Singh after taking loan from Punjab Scheduled Castes Financial Corporation, Chandigarh and he was the owner by way of hire purchase. The documents also speak that it was only Tarsem Singh who was depositing the installments. The account books of Cargo Motors, Jalandhar, through whom he had taken the loan, reveal that it was Tarsem Singh who was making the payment of the loan and the petitioner Raj Kumar did not deal with Cargo Motors or Punjab Scheduled Castes Financial Corporation, at any stage of time. The photocopy of the verification report from the office of DTO, Ferozepur dated 12.1.1999 placed on record also reveals that the truck was registered in the name of Tarsem Singh and it remained as such till the registration of the case against him. Besides, registration certificate, route permit and receipt showing the deposit of installment prima facie also strengthen the claim of the respondent-Tarsem Singh. It will also be pertinent to mention here that since the truck was taken into possession from the custody of the respondent-Tarsem Singh, therefore, he was entitled to have the supurdari

of the same during the pendency of the case. It is also not denied that criminal case was found to be false by the police and it is pending for approval of the cancellation report.

The powers of Revisional Court are very limited in nature. The patent illegality or perversity in the order is sine qua for interference in the order of supurdari. I find support to my this view from the judgment delivered in case ***Maniram Maurya vs. State (NCR) of Delhi, 1998 (3) RCR (Criminal) 473,*** wherein it was observed as under:-

> *"There is no dispute that the criminal case is still pending and the impugned order is an order of supurdagi. In the ordinary course this supurdagi order is not interfered unless it is to be found that there has been grave miscarriage of justice or the order is perverse....."*

Having examined the impugned order, no irregularity much less illegality or perversity has been pointed out or detected in the impugned order suggesting interference by this Court.

Consequently, finding no merit in the revision petition, the same is hereby dismissed.

March 28, 2007 **(A.N. Jindal)**
deepak **Judge**